

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

IN RE:)	03-10383/Chapter 12 Proceeding
)	
ROBERT L. HERRON and)	MOTION TO ALLOW CLAIMS/
DONNA L. HERRON d/b/a)	OBJECTIONS TO CLAIMS
Piney Hill Dairy,)	
)	
Debtors.)	

The Chapter 12 debtors move the Court to allow claims and object to certain claims, allege and say:

1. The debtors' Chapter 12 plan was confirmed by order entered on February 3, 2004.
2. The Chapter 12 plan provides for claims to be set, post-confirmation, by motion and/or objection.
3. The Chapter 12 plan provides for one regular secured creditor, Carolina Farm Credit, in Classes 3, 3(A) and 3(B); Carolina Farm Credit is a fully secured creditor to be paid directly by the debtors.
4. The Chapter 12 plan provides for one priority creditor, Buncombe County Tax Collector, with claim of \$1,314.85 to be paid in Class 2.
5. The United States of America/Department of the Treasury/Internal Revenue Service has filed a tax claim for \$10,891.45 (Claim No. 11) as an estimated claim; the debtors do not owe a tax to the I.R.S. and object to that claim. The debtors have filed tax returns, post-petition, to reflect no tax debt.
6. The allowed general unsecured claims (some of whom have judgments) are:

a. Crystal Farm Mills, Inc. (Claim #5)	\$27,632.07
b. Deal Rite Feed, Inc. (Claim #4)	7,835.95
c. Alderwoods Group (Claim #s 8 & 10)	6,436.07
d. Fenders Dairy Equipment, Inc. (Claim #2)	2,925.48
e. Fletcher Feed (Claim #7)	29,905.35
f. Furst-McNess Co. (Claim #3)	37,448.80
g. G&M Milling Co. (Claim #9)	12,270.03
h. Southeast Select Sires (Claim #1)	916.63
7. The objected to general unsecured claims and secured claims are:
 - a. Biltmore Oil; \$1,800.00; no claim filed; the debtors paid this debt pre-petition.
 - b. Spartan Grain; \$20,000.00; no claim filed.


- c. U. S. Cellular-Tenn; \$200.00; no claim filed.
- d. William Funeral Services; \$7,000.00; no claim filed.
- e. WNC Vet; \$2,600.00; no claim filed
- f. Creditors claiming secured whose claim is recognized in Paragraph 6 above as general unsecured claims to be disallowed as secured claims under the Chapter 12 plan.
 - i. Crystal Farm Mills, Inc.
 - ii. Deal Rite Feeds, Inc. (except as provided in Chapter 12 plan)
 - iii. Fenders Dairy Equipment, Inc.
 - iv. Furst-McNess Co.
 - v. GM Milling Co.
 - vi. Boyce R. Nesbitt (OO CvD 2565, Bunc. Co. CSC)

8. Pursuant to the Chapter 12 confirmed plan and in the best interest of the Chapter 12 estate and creditors, the Court show allow the claims indicated above and sustain the debtors' objections as indicated.

THEREFORE, the Chapter 12 debtors respectfully move the Court for an order as follows:

- 1. To allow the claims as indicated in allegations paragraphs 3, 4 and 6 above.
- 2. To sustain the debtors' objections to claims as indicated in allegations paragraphs 5 and 7 above.
- 3. To require written response from creditors for whom the debtors have objected to claims within 30 days of the date of the objection motion with such to be set for preliminary hearing on April 21, 2004 with final hearing set by the Court thereafter.
- 4. For other appropriate relief.

This the 1st day of March, 2004.


David G. Gray, Attorney for Debtors
N. C. State Bar No. 1733

WESTALL, GRAY, CONNOLLY & DAVIS, P.A.
81 Central Avenue
Asheville, North Carolina 28801
Tel: (828) 254-6315
Fax: (828) 255-0305

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

IN RE:)	03-10383/Chapter 12 Proceeding
)	
ROBERT L. HERRON and)	NOTICE OF OPPORTUNITY
DONNA L. HERRON d/b/a)	FOR HEARING
Piney Hill Dairy,)	
)	
Debtors.)	


TAKE NOTICE that the debtors have filed motion to allow claims/objections to claims; a copy accompanies this notice.

TAKE FURTHER NOTICE that any response to the debtors' motion must be filed in writing with the Clerk of the Bankruptcy Court (100 Otis Street, Asheville, North Carolina 28801) within 30 days of the date of this notice and a copy served on the attorney identified below and upon other parties as required by law or court order. Any response shall clearly identify the specific objection to which the response is directed and it shall comply fully with Local Bankruptcy Rule 7.

TAKE FURTHER NOTICE that preliminary hearing will be held on the debtor/debtor-in-possession's motion on April 21, 2004 at which time objections to which no response is filed will be heard and hearing date will be set to hear objections to which response has been filed. There will be no hearing of contested objections with responses on April 21, 2004, only objections to which no response is filed. If you respond to the objection, you must appear on April 21, 2004 for setting of hearing.

TAKE FURTHER NOTICE that the April 21, 2004 hearing will be at 9:30 a.m. or thereafter as reached for hearing before the Bankruptcy Judge Presiding in the first floor courtroom of the United States Courthouse, 100 Otis Street, Asheville, North Carolina. If you do not respond and appear to contest the objection, the objection will be allowed and your claim eliminated according to the objection. No further notice of this hearing will be given.

This the 1st day of March, 2004.


David G. Gray, Attorney for Debtor/D.I.P.
N. C. State Bar No. 1733


WESTALL, GRAY, CONNOLLY & DAVIS, P.A.
81 Central Avenue
Asheville, North Carolina 28801
Tel: (828) 254-6315/Fax: (828) 255-0305

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

IN RE:)	03-10383/Chapter 12 Proceeding
)	
ROBERT L. HERRON and)	CERTIFICATE OF SERVICE
DONNA L. HERRON d/b/a)	
Piney Hill Dairy,)	
)	
Debtors.)	

The undersigned certifies that copy of Notice of Opportunity for Hearing with copy of Motion to Allow Claims/Objections to Claims has been served on each party listed on the attached mailing matrix, said service being by first class mail in a properly addressed envelope with adequate postage affixed.

This the 1st day of March, 2004.



David G. Gray, Attorney for Debtors
N. C. State Bar No. 1733

WESTALL, GRAY, CONNOLLY & DAVIS, P.A.
81 Central Avenue
Asheville, North Carolina 28801
Tel: (828) 254-6315
Fax: (828) 255-0305

Alderwoods Group
c/o Creditors Bankruptcy Service
P.O. Box 740933
Dallas, TX 75374

Case 03-10383

Doc 45

Alderwoods Group
P.O. Box 740933
Dallas, TX 75374

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Biltmore Oil
191 Amboy Road
Asheville NC 28806

Desc Main

Daniel C. Bruton
BELL, DAVIS & PITT, P.A.
Post Office Box 21029
Winston-Salem, NC 27120-1029

Buncombe Co. Tax Collector
Buncombe Co. Courthouse
60 Court Plaza
Asheville NC 28801

Carolina Farm Credit, ACA
Attn: Bobby Goodin
P.O. Box 1827
Statesville, NC 28687

Crystal Farms Mills, Inc.
c/o Frank B. Jackson, Atty
PO Box 1666
Hendersonville NC 28793

Crystal Farms Mills, Inc.
Post Office Box 7101
Chestnut Mountain, Georgia 30502

Deal Rite Feeds, Inc.
109 Anna Drive
Statesville NC 28625

Internal Revenue Service
INSOLVENCY III
320 Federal Place, Room 327
Greensboro, NC 27401

Fender's Dairy Equipment, Inc.
10 Brookview Drive
Candler NC 28715

Fletcher Feed
PO Box 96
Fletcher NC 28732

Furst-McNess Company
% Christopher Small, Atty
1078 W. Fourth Street
Winston-Salem NC 27101

G & M Milling Company
4000 Taylorsville Hwy.
Statesville NC 28625

Robert & Donna Herron
444 Lower Brush Creek Rd
Fletcher NC 28732

Mark A. Pinkston
P.O. Box 7376
Asheville, NC 28802

Roberts & Stevens P.A.
P. O. Box 7647
Asheville, NC 28802

Southeast Select Sires
3789 Old Port Royal Road
Spring Hill TN 37174

Spartan Grain
% Purina Mills
PO Box 248
Camp Hill PA 17011

U. S. Cellular-Tn.
7525 Mitchell Road
Minneapolis MN 55344

WNC Vet
309 Long Shoals Road
Arden NC 28704

William Funeral Services
856 Tunnel Road
Asheville NC 28805

Boyce R. Nesbitt
% Cecil Jackson, Atty.
17 Arlington Street
Asheville NC 28801